Supreme Court of Texas

No. 26-0099

Texas Right to Life and John Seago,

Petitioners,

v.

Allison Van Stean; Planned Parenthood of Greater Texas Surgical Health Services; Planned Parenthood South Texas Surgical Center; Planned Parenthood Center for Choice; Bhavik Kumar, M.D.; North Texas Equal Access Fund; Lilith Fund for Reproductive Equity, Inc.; The Afiya Center; Fund Texas Choice; West Fund; Frontera Fund; Clinic Access Support Network; The Bridge Collective; Monica Faulkner; Michelle Tuegel; Ghazaleh Moayedi, D.O.; and Jane Doe,

Respondents

On Petition for Review from the
Court of Appeals for the Third District of Texas

PER CURIAM

In this interlocutory appeal from the denial of a motion to dismiss, the plaintiffs concede that their affirmative claims are now moot and the case should be dismissed for lack of jurisdiction. The defendants respond that the plaintiffs' claims cannot be moot because they never

had standing to begin with. We hold that, either way, there is no justiciable controversy before us, so we dismiss the case.

I

In 2021, the Legislature enacted the Texas Heartbeat Act. Among other things, the Act prohibits a physician from knowingly performing or inducing an abortion if the unborn child has a detectable heartbeat. TEX. HEALTH & SAFETY CODE § 171.204(a). But the Act provides that it "shall be enforced exclusively through . . . private civil actions." *Id.* § 171.207(a). Under the Act, "[a]ny person" may bring a civil action against anyone who performs or induces an abortion in violation of the Act, knowingly aids or abets the performance or inducement of an abortion in violation of the Act, or intends to engage in such conduct. *Id.* § 171.208(a). The Act further provides that a prevailing claimant is entitled to injunctive relief, statutory damages of no less than $10,000 for each violation, and costs and attorney's fees. *Id.* § 171.208(b).

Shortly after the Act took effect, fourteen separate lawsuits[1] were filed against Texas Right to Life; its director, John Seago; and others.

[1] The underlying lawsuits are:

- *Allison Van Stean v. State of Texas et al.*, No. D-1-GN-21-004179 (98th Dist. Ct., Travis Cnty., Tex.)
- *Monica Faulkner v. State of Texas et al.*, No. D-1-GN-21-004189 (250th Dist. Ct., Travis Cnty., Tex.)
- *Jane Doe v. State of Texas et al.*, No. D-1-GN-21-004193 (53d Dist. Ct., Travis Cnty., Tex.)
- *The Bridge Collective v. State of Texas et al.*, No. D-1-GN-21-004303 (126th Dist. Ct., Travis Cnty., Tex.)
- *Michelle Tuegel v. State of Texas et al.*, No. D-1-GN-21-004316 (261st Dist. Ct., Travis Cnty., Tex.)

The lawsuits named TRTL and Seago as defendants because, according to plaintiffs' petitions, they had previously announced their intention to bring lawsuits under the Act. Plaintiffs sought a declaration under the Uniform Declaratory Judgments Act, TEX. CIV. PRAC. & REM. CODE §§ 37.001-.011, that portions of the Heartbeat Act are unconstitutional and an anti-suit injunction to prevent defendants from suing under the Act. These fourteen suits were consolidated into a multi-district litigation proceeding.

TRTL and Seago filed a plea to the jurisdiction and moved to dismiss plaintiffs' claims in each case under the Texas Citizens Participation Act, *id.* §§ 27.001-.011. Among other things, they insisted that plaintiffs lacked standing because "every Texas abortion provider is complying with [the Act]—and they have been complying with [the

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- *Dr. Ghazaleh Moayedi v. State of Texas et al.*, No. D-1-GN-21-004489 (98th Dist. Ct., Travis Cnty., Tex.)
- *The N. Tex. Equal Access Fund v. State of Texas et al.*, No. D-1-GN-21-004503 (455th Dist. Ct., Travis Cnty., Tex.)
- *Lilith Fund for Reprod. Equity, Inc. v. State of Texas et al.*, No. D-1-GN-21-004504 (53d Dist. Ct., Travis Cnty., Tex.)
- *Clinic Access Support Network v. State of Texas et al.*, No. D-1-GN-21-004544 (201st Dist. Ct., Travis Cnty., Tex.)
- *The Afiya Ctr. v. State of Texas et al.*, No. D-1-GN-21-004605 (455th Dist. Ct., Travis Cnty., Tex.)
- *Fund Tex. Choice v. State of Texas et al.*, No. D-1-GN-21-004606 (98th Dist. Ct., Travis Cnty., Tex.)
- *Planned Parenthood of Greater Tex. Surgical Health Servs. et al. v. Tex. Right to Life et al.*, No. D-1-GN-21-004632 (53d Dist. Ct., Travis Cnty., Tex.)
- *The West Fund v. State of Texas et al.*, No. D-1-GN-21-004648 (261st Dist. Ct., Travis Cnty., Tex.)
- *Frontera Fund v. State of Texas et al.*, No. D-1-GN-21-004846 (53d Dist. Ct., Travis Cnty., Tex.)

Act] since the moment it took effect on September 1, 2021." Following a combined hearing, the trial court denied the jurisdictional plea and the TCPA motion to dismiss and granted plaintiffs' motion for summary judgment in part, awarding declaratory and injunctive relief.

TRTL and Seago appealed the denial of their TCPA motion, which automatically stayed the underlying litigation. *See id.* § 51.014(a)(12) (providing for an interlocutory appeal from the denial of a TCPA motion to dismiss), (b) (stating that an appeal of a TCPA motion to dismiss stays the trial and "all other proceedings in the trial court pending resolution of that appeal"). While that appeal was pending in the court of appeals, the U.S. Supreme Court decided *Dobbs v. Jackson Women's Health Organization*, which held that the U.S. Constitution does not confer a right to abortion. 597 U.S. 215, 231 (2022) (overruling *Roe v. Wade*, 410 U.S. 113 (1973), and *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833 (1992)). The significance of *Dobbs* for this case is that it triggered the effective date of a separate Texas statute regulating abortion. *See* Human Life Protection Act of 2021, 87th Leg., R.S., ch. 800, § 3, 2021 Tex. Gen. Laws 1886, 1887 (stating that the Act takes effect "on the 30th day after . . . the issuance of a United States Supreme Court judgment in a decision overruling, wholly or partly, *Roe v. Wade*"). That statute, with certain exceptions, prohibits persons from "knowingly perform[ing], induc[ing], or attempt[ing] an abortion," TEX. HEALTH & SAFETY CODE § 170A.002(a), and it imposes both criminal punishment and civil penalties enforceable by the Attorney General for a violation, *id.* §§ 170A.004, .005.

Meanwhile, in this case, the court of appeals initially affirmed the trial court's order and concluded that the TCPA does not apply to plaintiffs' claims, but this Court vacated and remanded the case to the court of appeals with instructions to first address whether plaintiffs had standing. *Tex. Right to Life v. Van Stean*, 702 S.W.3d 348, 351 (Tex. 2024). On remand, the court of appeals held that plaintiffs had standing, that their claims were both ripe and not moot, and that the TCPA does not apply. 729 S.W.3d 896, 905-16, 917-21 (Tex. App.—Austin 2026). TRTL and Seago again petitioned for review, asserting that (1) all plaintiffs lack standing or their claims are otherwise moot because plaintiffs have stopped performing or assisting abortions in Texas and (2) the court of appeals erred in holding that the TCPA does not apply to plaintiffs' claims. The Court ordered plaintiffs to respond to the petition.

II

After initially seeking and obtaining two extensions of time to file their response, plaintiffs filed a motion to dismiss the case as moot. They argue that their claims are moot because TRTL and Seago are now barred by limitations from suing them. According to plaintiffs—and consistent with the position TRTL and Seago previously embraced—no Texas physician has performed a prohibited abortion since the Human Life Protection Act took effect in August 2022. Because a civil action under the Heartbeat Act must be brought within four years of the violation, *see* TEX. HEALTH & SAFETY CODE § 171.208(d), plaintiffs now concede that they do not face any threat of a civil lawsuit under that Act, meaning they have no concrete injury that would be remedied by the

relief they request in their suit. *See Grassroots Leadership, Inc. v. Tex. Dep't of Fam. & Protective Servs.*, 646 S.W.3d 815, 820 (Tex. 2022) ("To satisfy standing's requirements, the alleged injury must be concrete."); *cf. State v. Zurawski*, 690 S.W.3d 644, 658-59 (Tex. 2024) (holding that standing to challenge a statute's constitutionality requires a credible threat of enforcement against arguably constitutionally protected activity).

While still insisting that plaintiffs never had standing, TRTL and Seago respond that plaintiffs' affidavits are insufficient to prove that they did not violate the Act in the previous four years or that they will not violate the Act going forward. But even if TRTL and Seago are correct, the case must still be dismissed because, according to them, plaintiffs lacked standing when suit was filed. Whether there was never a justiciable controversy at all or there used to be one that has since evaporated, nothing remains in this case for the judiciary to resolve.

TRTL and Seago also argue that, even if the case were otherwise moot, we must still resolve the issue of attorney's fees. They primarily contend that plaintiffs' UDJA claims include a request for attorney's fees, which, according to TRTL and Seago, precludes a finding that those claims are moot. They rely on this Court's decision in *State ex rel. Best v. Harper*, in which we stated that a claim for attorney's fees sometimes "breathes life" into an otherwise moot appeal when a statute authorizes a fee award "based on equitable principles regardless of who prevails." 562 S.W.3d 1, 7 (Tex. 2018). In that situation, we explained that the case may not be rendered moot because the trial court must consider the relative merits of the parties' positions when exercising its discretion

whether to award fees. *Id.* But here, all plaintiffs have affirmatively withdrawn any claim for attorney's fees.[2] Thus, unlike in *Harper*, the trial court would have no need or reason to consider the relative merits of plaintiffs' UDJA claims on remand.

TRTL and Seago further argue that plaintiffs' lawsuits are not moot because the UDJA allows either party to recover attorney's fees. *See* TEX. CIV. PRAC. & REM. CODE § 37.009 ("In any proceeding under this chapter, the court may award costs and reasonable and necessary attorney's fees as are equitable and just."). TRTL and Seago recently filed in at least one of the underlying lawsuits a request seeking, for the first time, attorney's fees under the UDJA. But they did so only after plaintiffs asserted that the underlying claims were moot and withdrew their pending UDJA fee claims. And TRTL and Seago have consistently taken the position that the courts never had jurisdiction over plaintiffs' claims. TRTL and Seago's belated claim for attorney's fees under the UDJA cannot revive an already moot case.[3]

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[2] TRTL and Seago argue that plaintiffs' withdrawal of their attorney's fee claims has no legal effect because they filed a "nonsuit" of their claims for attorney's fees and Rule 162 only permits a party to nonsuit the entire case, not individual claims. *See* TEX. R. CIV. P. 162 (stating the circumstances under which a plaintiff "may dismiss a case, or take a non-suit"). We need not decide whether this reading of Rule 162 is correct because we interpret the substance of plaintiffs' pleading to be the affirmative withdrawal of their claims for attorney's fees. *See In re J.Z.P.*, 484 S.W.3d 924, 925 (Tex. 2016) ("[C]ourts should acknowledge the substance of the relief sought despite the formal styling of the pleading." (quoting *Ryland Enter., Inc. v. Weatherspoon*, 355 S.W.3d 664, 666 (Tex. 2011))).

[3] This case thus differs from *Weldon v. Lilith Fund for Reproductive Equity*, in which a request for attorney's fees under the UDJA was pending when the case became moot. *See* 735 S.W.3d 702, 706 n.6 (Tex. 2026).

Finally, TRTL and Seago argue that they may seek attorney's fees under other law—the TCPA and the Heartbeat Act. *See id.* § 27.009(a)(1) (providing that a successful TCPA movant shall recover reasonable attorney's fees); *id.* § 30.022(a) (providing that a person seeking declaratory or injunctive relief against a statute that regulates or restricts abortion is liable to pay the attorney's fees of the prevailing party). But both statutes authorize fees only if TRTL and Seago prevailed in the underlying suit. Because they did not prevail under the TCPA or the Heartbeat Act before plaintiffs asserted that the substantive claims became moot, any claim for attorney's fees under those statutes does not "breathe[] life" into the underlying suit to prevent it from becoming moot. *See Harper*, 562 S.W.3d at 7-8.[4]

III

We hold that there is no justiciable controversy before us, and we must therefore dismiss the case. That raises the question of whether to vacate the court of appeals' opinion along with its judgment. *See, e.g.*, *Morath v. Lewis*, 601 S.W.3d 785, 790 (Tex. 2020). Plaintiffs prevailed in the court of appeals, and they are the parties now asking us to dismiss

[4] TRTL and Seago contend that the dismissal of this case, even for mootness, makes them a "prevailing party" under the Heartbeat Act and thus entitles them to an award of attorney's fees. *See* TEX. CIV. PRAC. & REM. CODE § 30.022(b) ("For purposes of this section, a party is considered a prevailing party if a state or federal court . . . dismisses any claim or cause of action brought against the party that seeks the declaratory or injunctive relief described by Subsection (a), regardless of the reason for the dismissal . . . ."). Even under defendants' theory, they would not become a prevailing party until after the Court dismisses the case. The Act expressly contemplates that a party may bring a separate civil action to recover attorney's fees. *Id.* § 30.022(c). We express no opinion regarding the merits of such a claim.

the case as moot. And this case involves questions of public importance. Accordingly, we vacate the court of appeals' opinion. *See id.* at 791-92.

IV

Without hearing oral argument or considering the merits of the appeal, we vacate the judgment and opinion of the court of appeals and the trial court's order and dismiss the case for want of jurisdiction. *See* TEX. R. APP. P. 56.2, 59.1.

OPINION DELIVERED: November 20, 2026